

Court of Appeals Div. II
909 A Street, Suite 200
Tacoma, WA 98402

Michael Ross Morales
Doc # 743519 BB22
CASE # 55608-1-17

FILED
COURT OF APPEALS
DIVISION II
2021 OCT 25 PM 1:08
STATE OF WASHINGTON
DEPUTY

To whom it may Concern,
I am asking the Court to Accept an Amended Statement of Additional Grounds because I left out an important fact which is Failure of my Lower Court attorney to play the video the way she played it for me which is what she told me she was going to do. But instead she never played the video in slow motion, zoomed in, and the picture lightened up which would have shown the driver was not a 300 lb man as I am and it also would have shown the deceased Michael Semmatunk Pave in the middle of the road then when the stolen car approaches he steps quickly into the path of the car intentionally committing suicide. This was all caught on film but prosecutors never played it in slow motion, zoomed in and lightened up so since the video was evidence I am requesting the appeals court to do so in all fairness.

There is also the fact that the lower court judge ruled against me when my attorney was denied Due Process when the evidence was not held that could have proven me innocent and it was lost or destroyed 8 months prior to an arrest in the case. So I am asking the Appellate Court to rule in my favor as the lower court judge made an improper ruling when it ruled there was no Due Process Violation

After my Lower Court Attorney requested to have access to the Evidence she was informed that they never preserved the Evidence in which I needed to prove there was reasonable doubt that I was not the Driver that day when Michael Semmalink intentionally stepped into the path of the oncoming car. My Due Process Rights were violated and my Lower Court Attorney did not do what she said she was going to do which was play the video in slow motion, zoomed in and the Picture lightened up then the Jury could have seen the real truth.

And that is that I was not the Driver of the 2000 Hyundai Accent and that there was nothing anyone could have done. Mr. Semmalink was intent on committing suicide or finishing what he started the day prior on Fourth Plain where he walked into work hour traffic where he was hit but instead of dying they patched him up set his broken leg and allowed him to leave against Doctors orders. They allowed a suicidal man and even gave him a room but instead of resting he walked 2 blocks away and walked into the path of the stolen car and this time he successfully succeeded in killing himself. The video shows Mr. Semmalink walk to the middle of the road and pause while the stolen car approached and when it was so close the Driver could not avoid hitting Mr. Semmalink who for the

second time in 24 hours succeeded in committing suicide, He wanted to die for what reason we will never know, but if you the Appellate Judge will watch the video in slow motion, zoomed in and lighten the picture you will see Mr. Semmler was intent on suicide and there was nothing anyone could have done to stop him other than to have kept him in the hospital.

They gave him a room against Doctors orders he left the hospital no one knew how badly he was hurt because he never stayed in the hospital to find out.

I am requesting that you the Appellate Judge watch the video in slow motion and zoomed in & the picture lightened up the way my attorney Josephine Townsend should have played it like she said she was going to play it for the jury. The video is evidence just like the car was and I was denied my due process both ways I from not preserving the evidence and too by my lower court attorney not representing me like she said she would do. She told me & played the video for me and she said she would play it for the jury but she never kept her word to me I am asking you the Judge to watch the video as the jury should have seen it. You have the

power to make it right and its my belief that if you watch the video and look at some of the case law. State v. Gauth in General of the State fails to preserve material Evidence (Exculpatory) Criminal charges must be dismissed.

Under State v. Boyd whether a specific request to Examine Evidence was made before or after the Destruction of Evidence is relevant in determining whether the Destruction or loss of Evidence was a due process violation. I argued that further Examination of the Car would have (1) offered an alternative Explanation as to why his blood was on the inside of the Car (2) shown he was not the driver there were multiple reasons why the Evidence should have been preserved.

On State v. McDonald 122 WASH App 804, 95 P.3d 1248 (Div 2 2004) Due Process Requires the Prosecution to Disclose Material Evidence to the Accused which if Suppressed or Destroyed would deprive the Defendant of a Fair Trial. Evidence Undisclosed to an accused is material Evidence and therefore Non-Disclosure violates Due Process if there is a Reasonable Probability that had the Evidence been Disclosed to the Defense the Result of the Proceedings would have been Different. A Reasonable Probability is a Probability Sufficient to Undermine Confidence in the Outcome of a hearing or Trial.

And here the States own investigator

opens in his report that it is likely that this was not an accident, that the decedent intentionally stepped in front of the passing car as it was passing. Gary Rice the investigator said in his report that this was an act of suicide and not an accident.

There was no evidence to indicate who was driving left of an accident only that whomever was driving left the scene of ~~an~~ a suicide

According to *State v. Macdonald* the Prosecution has violated the State and Federal Due Process rights of Mr. Ross Morales by not providing access to actual material evidence which is necessary for providing proof of his innocence by destroying or releasing the material evidence which is necessary for proving his innocence. On that basis alone the mandatory result is dismissal (12-18-2020) This was an intentional act of suicide and for which the statute does not apply.

STATE v Blackwell 120 WASH 2D 822, 845 P.2D 2017 (1993) Failure to preserve evidence that is MATERIAL and favorable to an accused generally violates defendant's Constitutional right to fair trial Due Process was denied the minute the failure released the car, whether it was released in bad faith or not its the same as destroying evidence which is non disclosure to the defense violates defendant's Constitutional right to Due Process Being as it affected the outcome in trial.

Please accept these Reasons as an Amended
Statement of additional Grounds and because
my Lower Court Attorney showed ineffective assistance
of Counsel and hopefully she will send in a
statement saying just that

Thank you for your consideration in accepting
my Statement of additional Grounds.

Sincerely Michael Ross-Morales
Michael Ross-Morales
Cause # 55608-1-11